

FOOD AND DRUG ADMINISTRATION

United States Department of Agriculture

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

28751-28975

[Approved by the Acting Secretary of Agriculture, Washington, D. C., September 16, 1938]

28751. Adulteration and misbranding of canned corn. U. S. v. 33 Cases of Canned Field Corn (and one other seizure action against the same product). Decrees of condemnation. Portion of product released under bond for proper labeling; remainder destroyed. (F. & D. Nos. 41384, 41385. Sample Nos. 60741-C, 60849-C.)

These cases involved canned field corn which had been substituted for canned sweet corn. The quantity of the contents was not declared.

On January 13, 1938, the United States attorney for the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 33 cases of canned field corn at Pueblo, Colo., and 172 cases and 458 cans of field corn at Akron, Colo., shipped by the Old Grimes Canning Co., alleging that the article had been shipped in interstate commerce on or about September 4, 1937, from Grimes, Iowa, and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The cans were unlabeled.

The article was alleged to be adulterated in that field corn had been substituted wholly or in part for sweet corn, which it purported to be.

It was alleged to be misbranded in that it was an imitation of canned corn, which is sweet corn, and it was not labeled to show that it was not sweet corn; and in that it was sold under the distinctive name of another article, namely, canned corn, which it purported to be, namely, sweet corn. It was alleged to be misbranded further in that it was food in package form and the quantity of the contents of the package was not plainly and conspicuously marked on the outside of the package.

On March 1, 1938, Wash Bros., Inc., Akron, Colo., having appeared as claimant for the goods seized at Akron, Colo., and having filed answer admitting the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be correctly labeled under supervision of this Department. On the same date no claim having been entered for the lot seized at Pueblo, Colo., it was condemned and ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28752. Misbranding of canned tomatoes. U. S. v. 383 Cases of Canned Tomatoes (and one other seizure action). Consent decrees of condemnation. Product ordered released under bond for relabeling. (F. & D. Nos. 40955, 41137. Sample Nos. 42467-C, 42495-C.)

This product was substandard since the tomatoes did not consist of whole or large pieces, and in one lot it contained excessive peel; and it was not labeled to indicate that it was substandard.

On November 30 and December 16, 1937, the United States attorney for the Western District of Texas, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 383 cases of canned tomatoes at Hamilton, Tex., and 570 cases of canned tomatoes at Gatesville, Tex., alleging that the article had been shipped in interstate commerce on or about October 4, 1937, by Putman Canning Co.,

from Avoca, Ark., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Putman Brand Hand Packed Tomatoes * * * Putman Canning Co., Avoca, Ark."

It was alleged to be misbranded in that it was canned food, and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because the tomatoes did not consist of whole or large pieces, and because a portion contained excess peel, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 1, 1938, the Putman Canning Co., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

28753. Adulteration of candy. U. S. v. 7 Boxes of Candy (and 3 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 41441, 41444, 41481, 41483. Sample Nos. 1585-D, 2011-D, 2449-D, 8997-D.)

Samples of this product were found to contain insect fragments, excreta, rodent hairs, and miscellaneous foreign substances.

On January 17 and January 21, 1938, four United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 71 boxes of candy in various lots at Chicago, Ill., Coatesville, Pa., Omaha, Nebr., and Marion, Ohio, alleging that the article had been shipped in interstate commerce by the Queen Anne Candy Co., from Hammond, Ind., between the dates of December 17, 1937, and January 5, 1938, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Queen Anne Candy Co. * * * Hammond, Ind."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On February 18 and 28, and March 2 and 18, 1938, the owner of the lot seized at Omaha, Nebr., having consented to its destruction and no one having appeared in the remaining cases, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28754. Misbranding of canned cherries. U. S. v. 16 Cases of Canned Cherries. Default decree of condemnation and destruction. (F. & D. No. 41645. Sample No. 457-D.)

This product was substandard because the cherries were packed in water, and it was not labeled to indicate that it was substandard. It was also short weight.

On February 8, 1938, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 cases of canned cherries at Lewiston, Idaho, alleging that the article had been shipped in interstate commerce on or about October 4, 1937, from Veradale, Wash., by the Spokane Valley Canning Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Spokane Valley Brand Sour Pitted Cherries Net Contents 7 Lbs. 8 Oz. Spokane Valley Canning Co., Veradale, Wash."

The article was alleged to be misbranded in that the statement "Net Contents 7 Lbs. 8 Oz." was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct; and in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the cherries were packed in water and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 8, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*